



Legislative Research Council

RETIREMENT LAWS COMMITTEE MINUTES

**First Meeting
2005 Interim
September 15, 2005**

**Ramkota Inn
Pierre, South Dakota**

The first meeting of the 2005 interim of the Legislature's Retirement Laws Committee was called to order by Senator Brock Greenfield at 9:00 a.m., September 15, 2005, in the Lake Francis Case Room of the Ramkota Inn, Pierre, South Dakota. The committee met jointly with the Board of Trustees of the South Dakota Retirement System (SDRS).

A quorum was present with the following members answering the roll call: Senators Brock Greenfield, Jerry Apa, and Gil Koetzle; and Representatives Burt Elliott, Tim Rounds, Elaine Roberts, and Lou Sebert. Excused were Senators William Earley and Dan Sutton; and Representative Matthew Michels.

Annie Mehlhaff, Principal Fiscal Analyst, and Reta Rodman, Legislative Secretary, were present from the Legislative Research Council.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

Welcome and Introductions

Mr. Elmer Brinkman, Chair of the South Dakota Retirement System Board of Trustees asked all members of the Board of Trustees of the South Dakota Retirement System (SDRS) and the individuals in the audience to introduce themselves.

SDRS Membership and Experience Report

Mr. Rob Wylie, Administrator, distributed a handout entitled "South Dakota Retirement System – Membership and Experience Report-Fiscal Years 2004 and 2005" **(Document #1)**. In his report Mr. Wylie stated that the SDRS's participating units include school districts, state government, municipalities, counties, Board of Regents, and other entities with the total participating units in FY 2005 of 461. This figure is up slightly over the year 2004. He also reported that school districts had the highest percent of total units at 39%.

From this report he explained that the membership is comprised of active members (35,773), inactive members (13,511), and benefit recipients (17,547). At this time, Mr. Wylie also reviewed the breakdown of each category along with the total contributions received and the total benefits and expenses.

Mr. Matt Clark, State Investment Officer, introduced **Ms. Tammy Otten**, Assistant Investment Officer, who proceeded with the presentation on the investment performance for the year 2005. Due to the late meeting date, she explained the figures are the final results for the year 2005. She distributed a handout entitled "South Dakota Retirement System Analysis" (**Document #2**). Ms. Otten explained that the market gained momentum at the end of October, 2004, with the real estate market having an outstanding increase of 33%.

The South Dakota Retirement System earned higher returns by taking the extra risk. The annual rate of return for the South Dakota Retirement System in FY2005 was 13.43%. She explained that South Dakota was very fortunate this year in the rate of returns received, and this result was due to the excellent market environment. When asked who makes the decision on asset allocation, she replied that the decision is made by the investment officer. Mr. Clark added that the Investment Council tries to understand the best competitors both in the private and public sector.

When asked by Senator Apa if the investment council compared the South Dakota state fund to other funds in other states, Ms. Otten replied that they continually monitor other funds comparable to ours.

Preliminary Funded Status, Reserve & Cushion:

Ms. Koren Holden, Buck Consultants, distributed a handout entitled "South Dakota Retirement System – Preliminary Projection of SDRS Funded Status, Reserve and Cushion as of June 30, 2005" (**Document # 3**). Ms. Holden stated that there was a \$581 million cushion as of June 30, 2004 with \$88 million balance in reserve. She gave an example of before liability gains/losses for the year ending June 30, 2005, but after consideration of the effect of the economic actuarial assumption changes as of June 30, 2005, and if the investment return is 12% then the actuarial value funded ratio would be 98% with the market value funded ratio being 111%.

Legislative Proposals

Mr. Rob Wylie, Administrator, distributed a handout entitled "2006 SDRS Proposed Legislation and Items Under Consideration" (**Document #4**). Mr. Wylie reported that final consideration on the proposed legislation and items will be handled either during this meeting or delayed until the December meeting. Mr. Wade Hubbard, SDRS staff attorney, explained the proposed legislation, which was mainly a clarification of existing statutes. The 2006 SDRS proposed legislation is an Act to adjust participation standards for the South Dakota Retirement System Special Pay Plan. This Act clarifies the word "participant" to read as

follows: “a terminated employee of a participating unit who ~~is age fifty five or over~~ has reached the calendar month prior to the month of the member’s fifty-fifth birthday and who received ~~two thousand~~ six hundred dollars or more in special pay”. There are eight additional items under consideration, and they are:

- An Act to define certain terms related to the South Dakota Retirement System,
- An Act to clarify and conform the beneficiary provisions of the South Dakota Retirement System,
- An Act to clarify disability benefit provisions within the South Dakota Retirement System and to bring those provisions into conformity with federal law,
- An Act to provide for circumstances and provisions for termination of disability benefits within the South Dakota Retirement System,
- An Act to establish a time limit within which certain retirees may start receiving retirement benefits from the South Dakota Retirement System,
- An Act to establish to whom the South Dakota Retirement System may make benefit payments on behalf of minors.
- An Act to clarify the provisions of the level income payment option within the South Dakota Retirement System, and
- An Act to amend the procedures by which a new employer unit may join the South Dakota Retirement System.

A discussion was held with regards to the benefits continuing for one year if disability benefits terminate. Mr. Wylie advised that the one year benefits continuation is very important to make sure the individual is truly recovered from their injury. When an individual is being considered for disability the retirement system pays back to the time of the application.

Senator Apa asked who gives the approval to approve the addition of new employer units. SDRS staff responded that they make that determination, and that the law is very specific with regards to this area.

Mr. Brinkman announced that no action would be taken today on the proposed legislation or items under consideration, but further review will take place at the December meeting. Representative Roberts questioned if there would be an improvement of benefits, and where the system is in terms at looking at those issues. Mr. Brinkman responded by stating that the Board of Trustees has defined where they want to be in terms of the cushions and reserves before they would think about improving benefits. With this in mind, the system does not have a comfortable level of reserves to talk about benefit improvements.

Ms. Koren Holden stated that the policy for benefit improvement acknowledges the cushion must be 23% of the actuarial value of assets, and the reserve must be sufficient to fully fund the present value of the benefit improvement. The funding period is 20 years or less and the market value of assets funded ratio exceeds 100% consistent with the board’s long-term goals and public policy with regard to retirement practices. Ms. Holden said that in 2004 the cushion was 12% of the actuarial value of assets. Mr. Wylie stated that the retirement

system has a continually updated list of areas that will be discussed in the future such as: retiree benefit assistance, increase of benefits, long-term care, etc.

Many committee members expressed their thoughts regarding the South Dakota Retirement System:

- The system is very solid and well funded at 110%;
- It remains a viable institution and they want to keep it there using a 3.1% COLA
- The reserves and cushions are very important; and
- The viability of the fund is the #1 concern and benefit increases are second in priority.

At this time, two handouts were distributed entitled “A Statement of Key Positions and Public Policy Related to SDRS Retirees Returning to Work” (**Document #5**), and “SDRS Retirees Returning to Work – Summary of the White Paper” (**Document #6**). Ms. Holden gave a brief history on the South Dakota Retirement System’s approved practice of retirees returning to work.

Ms. Holden reported that in the late 1990’s the following concerns developed among SDRS members, staff, and the Board of Trustees:

- Adhere to the formal retirement requirement;
- Consider if the employment after retirement opportunity should be available to all members regardless of employer; and
- Determine if the current provisions resulted in unanticipated costs to the System, including the return to work provisions.

She reported that the above resulted in more than three years of review of the current practices. The following summarizes the Board of Trustees’ findings:

- Concerns over current policies (misunderstanding, lack of uniform treatment, etc.),
- Supporters of current policies stated reasons to leave the system as is, (long-standing policy, permitted by law, etc.)
- Unanticipated costs were based on the experience of the prior ten years, (retirees who returned to work were employed for only a short period of re-retiring – an average of 21 months), and were determined to be less than 1% of total SDRS costs,
- Practices in other State Retirement Systems were found to have widely varying practices. It was discovered that the Social Security program permits retirees to continue to work with no penalty in their retirement benefits once they are eligible for unreduced Social Security Benefits, and
- There were six alternatives considered. They are:
 1. Mandatory suspension of benefits upon reemployment;
 2. Mandatory break in service;

3. Require additional termination and reemployment procedures by employers;
4. Allow no future participation in SDRS upon reemployment;
5. Allow benefits to begin while employed; and
6. Treat all members uniformly once eligible for Normal or Special Early Retirement by creating a DROP benefit.

Ms. Holden stated that the SDRS Board of Trustees position on retirees returning to work has six areas of key positions and public policy:

- Employment practices are established by each of the 458 participating employers in SDRS. Therefore, the decision by an SDRS participating employer to employ or reemploy a retiree rests solely with the employer and the employee;
- SDRS cannot – and should not – preclude a retiree from going back to work or a participating employer from hiring a current retiree. However, SDRS should not be harmed financially if a retiree returns to work;
- SDRS will not pay a retirement benefit unless a member has terminated employment, as certified by the employer, and is considered a terminated employee for all compensation and benefit practices of the employer;
- Only members who retire with unreduced benefits at Normal or Special Early Retirement and return to work with an SDRS participating employer can receive retirement benefits while reemployed. And, these members will have their SDRS COLA eliminated during the reemployment;
- If a retired member is rehired, the second period of employment is treated independently of the first period of employment, and the employee must qualify for SDRS benefits on the basis of the second period of employment only; and
- SDRS practices should not favor or encourage reemployment of a retired member or employment in another state or in non-public employment at the expense of public employment in South Dakota.

Mr. Wylie reported that in November, 2000, 383 retirees returned to work, and in July, 2005, the number had risen to 593. However, at this time, they are expecting to find that the numbers will begin to roll back. The detailed analysis in 2005 shows 7% of the current active work force has retirement in their history.

Senator Clarence Kooistra distributed two bill drafts entitled “Retiree Representation on SDRS Board of Trustees” (**Document #7**), and “Legislative Proposals by Senator Kooistra” (**Document #8**). Senator Kooistra’s presentation stated that there is a need for the Board of Trustees membership to be increased by two members. He stated Document #8 is simply language clean-up. A discussion followed regarding the hire and rehire of individuals and if the practice is acceptable.

Dr. James Hansen, SDRS Board of Trustees member, distributed a bill draft entitled “An Act to address procedures when a South Dakota Retirement System elected trustee changes status” (**Document #9**). This act states that SDCL 3-12-53 be amended as follows: “to state

that an employee-representative trustee who departs the trustee's electing group shall be considered to have resigned from the Board, as is now the case when employer-representative trustees or employee-representative trustees who have completely terminated membership in the System". Dr. Hansen would like the trustees to consider this proposal.

Adjournment

SENATOR APA MOVED, SECONDED BY REPRESENTATIVE SEBERT, THAT THE COMMITTEE BE ADJOURNED. THE MOTION PREVAILED ON A VOICE VOTE.

THE COMMITTEE ADJOURNED AT 12:30 P.M.